



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Robert W. Luffel, et al.

Group Art Unit: 2652

RECEIVED

DEC 24 2002

Serial No.: 09/371,708

Examiner: D. Davis

Technology Center 2600

Filing Date: 08/09/1999

Confirmation No.: 9563

Title: LATERALLY EXPANDABLE
MODULAR DATA STORAGE SYSTEM

Attorney Docket No.: 10980297-1

To The Honorable Assistant Commissioner for Patents
Washington, D.C. 20231

PETITION UNDER 37 CFR 1.10(e)

Dear Sir:

This petition is made pursuant to 37 CFR 1.10(e) in support of the timely filing of the Appeal Brief for U.S. patent application serial no. 09/371,708 which apparently was never received by the U.S. Patent and Trademark Office. Through telephone communication from David Davis, examiner of the above-referenced case, the Applicant learned that a copy of the Appeal Brief filed on May 2, 2002 is not in the examiner's file.

On personal knowledge, the undersigned, Bruce E. Dahl, affirms that the documents identified below were deposited on May 2, 2002 at 4:11 p.m. at the United States Post Office, Merchant Station, Denver, Colorado 80202-9998 as Express Mail, bearing Express Mail Label No. EV 019514427 US:

1. Transmittal of Appeal Brief (in duplicate);
2. Certificate of Express Mailing;
3. Appeal Brief including Appendix A and Appendix B (in triplicate); and
4. Post Cards for return by the United States Patent and Trademark Office.

Pursuant to 37 C.F.R. Section 1.10(e), we enclose the following true copies:

1. The Appeal Brief including Appendix A and Appendix B (in triplicate) (Exhibit A);
2. A copy of the "Express Mail" mailing label showing a "date-in" of May 2, 2002 (Exhibit B);
3. A copy of the returned, stamped postcard receipt (Exhibit C);
4. A copy of the "Express Mail" mailing receipt issued by the United States Post Office showing a date and time of May 2, 2002 at 4:11 p.m., respectively (Exhibit D);
5. A copy of the Transmittal of Appeal Brief (in duplicate) (Exhibit E); and
6. A copy of the Certificate of Express Mailing (Exhibit F).

The undersigned affirms that the copies submitted herewith are true copies of the originally mailed Appeal Brief including Appendix A and Appendix B (in triplicate), original "Express Mail" mailing label showing a "date-in" of May 2, 2002, original returned stamped postcard receipt, original "Express Mail" mailing receipt issued by the United States Post Office showing a date and time of May 2, 2002 at 4:11 p.m, respectively; original Transmittal of Appeal Brief (in duplicate), and original Certificate of Express Mailing.

Applicants respectfully request the Commissioner to accept the enclosed three (3) copies of the Appeal Brief including Appendix A and Appendix B as being timely filed on May 2, 2002.

Respectfully submitted,
DAHL & OSTERLOTH, L.L.P.


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